Mr. C. R. Iyyunni (*Trichur South*).—I second it.

Motion put and carried.

The Cochin Maternity Benefit Bill.

Mrs. G. M. D'Souza Williams (*Nominated*).—I beg to present the Select Committee Report on the Cochin Maternity Benefit Bill§ and move that the Bill as reported by the Select Committee be taken up for consideration. The Select Committee made only one change in the Bill, that is, in clause 5, sub clause (2) of the Bill, the period of benefit was resolved to be extended to 8 weeks instead of 7 weeks. With this one modification, the Bill was fully accepted by the Select Committee. Last time when this Bill was introduced in the Council I spoke about the necesssity of maternity benefit to factory women workers and that a small benefit of 3 annas per day will help to prevent the women from starvation during the period of confinement. I hope the Hon'ble Members of this House realising the sad plight of women workers will now consider this Bill in a spirit of sympathy and compassion.

മിസ്സിസ്സ് മീനാക്ഷി എൻ. മേനോൻ (*Nominated*).— സർ, ഈ ബില്ലിനെ സംബന്ധിച്ചു കഴിഞ്ഞതവണ അനുദ്യോഗസ്ഥ ഭാഗത്തുനിന്നും ഉദ്യോഗസ്ഥഭാഗത്തുനിന്നും യാതൊരു എതിർപ്പും ഉണ്ടാകാത്തതുകൊണ്ടു ഞാൻ ഈ അവസരത്തിൽ പ്രത്യേകം ഒരു പ്രസംഗമൊന്നുംകൂടാതെ ഈ ബില്ലിനെ പിൻതാങ്ങുന്നു.

Motion put and carried.

Clauses 2 to 14 put and carried.

Clause 1 put and carried.

Title and Preamble put and carried.

Mrs. G. M. D'Souza Williams (*Nominated*).—I move that the Bill be taken up and finally passed tomorrow.

Motion put and carried.

The Cochin Nambudiri Kudumba Bill

***Mr. T. A. Ramachandra Ayyar** (*Nellayi*).—Sir, I beg to present the Select Committee Report on the Cochin Nambudiri

§ Vide Appendix I.

* Speech not corrected by Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

Kudumba Bill and move that the Bill* as reported by the Select Committee be taken up for consideration.

ഈ ബില്ലിനെപ്പറ്റിയുള്ള സകല വിഷയങ്ങളും സിലക്ററു കമ്മിററി റിപ്പോർട്ടിൽ വിശദമായി പറഞ്ഞിട്ടുണ്ട്. ഇതിൽ ഒരു മാറ്റം മാത്രം വരുത്തീട്ടുള്ളതു് മൂന്നാമദ്ധ്യായത്തിലാണു്. ബഹുഭർത്തൃത്വത്തെ സംബന്ധിച്ചു് അന്വേഷണം നടത്തിയതിൽ യാഥാസ്ഥിതികന്മാരൊഴിച്ചു് ബാക്കിയുള്ള നമ്പൂതിരിമാരാരും ആക്ഷേപിക്കയുണ്ടായിട്ടില്ല. ആ സംഗതിക്കു തെളിവെടുത്തതിൽ ഭൂരിപക്ഷം അതായതു്, എല്ലാപേരും ബഹുഭർത്തൃത്വം തടയേണ്ടതും ക്രിമിനൽ ശിക്ഷക്രടി അർഹിക്കുന്നതുമാണെന്നാണു പറഞ്ഞിട്ടുള്ളതു്. യാഥാസ്ഥിതികന്മാരായ നമ്പൂതിരിമാർ നേരിട്ടു വന്നു തെളിവു തന്നിട്ടില്ലെങ്കിലും അവരിൽ ചിലരോടു നേരിട്ടു ചോദിച്ചതിൽ ഈ സംഗതിയിൽ യാതൊരു എതിർപ്പും ഉള്ളതായി അവർ പറഞ്ഞില്ല. പക്ഷെ, സ്ത്രീകളുടെ വിവാഹ കാര്യത്തിൽ ചില തടസ്ഥങ്ങളുണ്ടായേക്കുമെന്നു സംശയിക്കുന്നതായി മാത്രമേ അവർ പറഞ്ഞുള്ളൂ. വിവാഹ കാര്യത്തെ സംബന്ധിച്ചുള്ള ഞങ്ങളുടെ അന്വേഷണത്തിൽ ചെറുപ്പക്കാരായ നമ്പൂതിരിമാരുടെയിടയിൽ അവരുടെ ജാതിയിൽനിന്നുതന്നെ കല്യാണം കഴിക്കണമെന്ന അഭിപ്രായം നല്ലവണ്ണമുള്ളതായി ബോദ്ധ്യപ്പെട്ടിട്ടുണ്ട്. അതുക്രടാതെ രണ്ടു ക്രുട്ടർക്കും കുഴപ്പമില്ലാത്ത രീതിയിൽ കഴിഞ്ഞുക്രൂടുവാൻവേണ്ടി താഴ്ച്ചഴി ഭാഗവും ഇതിൽ ചേർത്തിട്ടുണ്ട്. അതുകൊണ്ടു് ഈ ബില്ലിനെ എല്ലാവരും യോജിച്ചു സഹായിക്കണമെന്നപേക്ഷിക്കുന്നു.

Mr. K. Ashtamoorthi Nambudiripad (*Landlords*).—I second it.

Motion put and carried.

Clauses 2 to 9 put and carried.

Clauses 10 and 11 put and carried.

Mr. President.—The question is that clause 12 shall form part of the Bill.

Mr. A. Eachara Menon (*Chittur Rural*).—My amendment is—"To omit the word 'major' in the first line and add after 'recover' in the second line the words 'by herself if she is a major or by her nearest relative if a minor". Because if the female is a minor, there is no chance of taking the amount from the tarwad. By the time she becomes a major the family would have gone to rack and ruin.

* Vide Appendix II.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. K. M. Ibrahim *(Cranganur).*—I second the amendment.

Amendment put and lost.

Clauses 12 to 34 put and carried.

Clause 1 put and carried.

Title and Preamble put and carried.

Mr. T. A. Ramachandra Ayyar *(Nellayi).*—I beg to move that the Bill be taken up and finally passed tomorrow.

Motion put and carried.

The Cochin Newspapers Act Repeal Bill.

Mr. President.—Mr. Ikkanda Warrier's motion for further discussion of the Newspapers Act Repeal Bill (member absent) Next Mr. V. K. Krishnankutty's Cochin Bar Council Bill.

Mr. V. K. Krishnankutty *(Anthikad).*—I beg to move.....

Mr. E. Ikkanda Warriar *(Urakam).*—I request, Sir, that the discussion of the Newspapers Act Repeal Bill may be continued.

Mr. President.—It has been passed over, but I allow the Hon'ble Member to move it.

Mr. E. Ikkanda Warriar *(Urakam).*—Sir, I move that the discussion of the Cochin Newspapers Act Repeal Bill may be continued.

Mr. C. R. Iyyunni *(Trichur South).*—I second it.

Mr. President.—The House will now resume discussion of the Newspapers Act Repeal Bill.

* മിസ്റ്റർ ടി. കെ. നായർ (*Pazhayannur*).— നമ്മുടെ രാജ്യത്ത് വർത്തമാനപത്ര റഗുലേഷൻ നടപ്പിൽ വന്നതു ഏതു തരത്തിലാണെന്നും, അതിനെ സംബന്ധിച്ചുണ്ടായ അനുദ്യോഗസ്ഥസാമാജികന്മാരുടെ പ്രതിഷേധം ഏതെല്ലാം തരത്തിലായിരുന്നുവെന്നും ഒന്നുകൂടി ഈ അവസരത്തിൽ വിശദീകരിച്ചു പ്രസംഗിക്കേണ്ട ആവശ്യമുണ്ടെന്നു തോന്നുന്നില്ല. ആദ്യത്തിൽതന്നെ വർത്തമാനപത്രറഗുലേഷൻ ഒരു വിളംബരത്തുപോണ പുറത്തു വന്നപ്പോൾ ഞങ്ങൾ അതിന്റെ പ്രതിഷേധം രേഖ

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

13. (1) The Government may make rules for the purpose of carrying into effect the provisions to this Act.

Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll;

(b) the inspection of factories for the purposes of this Act by Inspectors of Factories.

(c) the exercise of powers and the performance of duties by Inspectors of Factories for the purposes of this Act; and

(d) the method of payment of maternity benefit in so far as provision has not been made therefore in this Act.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to rupees twenty-five.

(4) The making of rules under this section shall be subject to the condition of previous publication.

14. A copy of the provisions of this Act and the rules thereunder in Malayalam shall be exhibited in a conspicuous place by the employer in every factory in which women are employed.

Copy of Act and rules to be exhibited in factories employing women.

APPENDIX II.

THE COCHIN NAMBUDIRI KUDUMBA BILL.

Whereas it is expedient to define and amend in certain respects the law relating to family management, marriage, guardianship, intestate, succession and partition applicable to Nambudiri Brahmins; it is hereby enacted as follows:—

Preamble.

CHAPTER I.

Preliminary.

1. i. This Act may be called the Cochin Nambudiri Act, of 111 .

Short title and application.

ii. It shall apply

(a) to all Nambudiri Brahmins in the Cochin State;

(b) to all Nambudiri Brahmins outside the State in respect of immovable property situated within the State.

2. (a) 'Anandaravan' means any member of the illom other than the Karnavan;

Definitions.

(b) 'Illom' or 'Mana' means all the members of a Nambudiri joint family with community of property;

LIBRARY ARCHIVES Kerala Legislative Assembly

(c) 'Karanavan' means the oldest male member of an illom in whom the right to management of its properties vests or in the absence of a male member, the senior female member;

Explanation.—The seniority as between two or more females, who become members of the illom by marriage, shall be determined according to the dates of their marriages.

(d) 'Female members of an illom' means and includes females born in the illom but unmarried, and females married into the illom.

(e) 'Branch of an illom' means a group of persons in an illom consisting of a male and his wife or wives and his lineal descendants in the male line, or such of that group as are alive.

(f) 'Collateral branches of an illom' are branches of which the male ascendants though descended from a common male ancestor do not stand in the direct line of descent or ascent to the another.

CHAPTER II.

Illom and its Management.

Proprietary right of members in illom properties.

3. (1) Every member of an illom, whether male or female, shall have an equal proprietary interest in its properties.

(2) Such proprietary interest shall not in any manner be impaired or affected by reason of the deviation of such member from any orthodox custom or usage.

Duty of karanavan to keep accounts.

4. The karanavan shall keep true and correct accounts of the income and expenditure of the illom. The original or an attested copy of the accounts of each year shall be available for the inspection in the illom, by the major anandaravans once in a year throughout the month of Kanni and any such anandaravan may take copies of or extracts from such accounts.

Consent of major members necessary to validate alienation of illom property.

5. Except with the written consent of all the major members of the illom, wherever possible, no karanavan shall sell, mortgage or pledge illom property movable or immovable or lease it for a period of more than six years or grant renewals of kanam for a period of more than twelve years or give discharges or mortgages or pledges.

For the purposes of this section movables do not include usufructs and grains realised in the shape of pattam, michavaram, renewal fees or interest.

LIBRARY ARCHIVES Kerala Legislative Assembly

6. No sale, mortgage, pledge or other alienation of illom property or debt shall bind the illom unless it is executed or made or contracted for illom necessity or it is executed or made or contracted with the written consent of all the major members of the illom where there are only major members in the illom.

Mortgage and alienations when valid.

7. The burden of proving illom necessity shall be on the purchaser, mortgagee, pledgee, or other alienee, or creditor as the case may be. But the court may presume such necessity where all the major members of the illom are parties to or have given their written consent to the transaction.

Burden of proving illom necessity.

8. No decree shall bind the illom unless it be obtained against all the members thereof. But the mere ommission to implead any member other than the karanavan shall not be taken to invalidate it if the decree-holder proves that such ommission was not due to his negligence and that the illom was liable for the claim upon which it is based.

What decrees shall bind the illom.

9. Every member of an illom, whether living in the illom house or not, shall be entitled to maintenance consistent with the income and the circumstances of the illom.

Maintenance of members of illom.

10. Any karanavan may, by a registered document, give up his rights as karanavan but he shall not delegate his powers to any one.

Relinquishment of karnavanship.

CHAPTER III.

Marriage.

11. Notwithstanding any custom or usage to the contrary every major male Nambudiri shall subject to any law for the time being in force be at liberty to marry in his own community.

Rights of Nambudiri male to marry in his own community.

12. Any unmarried major female member of an illom who marries with a male belonging to the Nambudiri community shall be entitled to recover from the illom properties the reasonable expenses of such marriage, provided that not less than three months' notice in writting of the marriage shall be given to the karanavan.

Right of major Nambudiri female to have her marriage performed and recover the marriage expenses.

LIBRARY ARCHIVES Kerala Legislative Assembly

13. No Nambudiri who has a Nambudiri wife living shall marry another Nambudiri woman except in the following cases;—

Nambudiri not to marry a Nambudiri woman during lifetime of a Nambudiri wife except in certain cases.

(a) where the wife is afflicted with an incurable disease for more than five years;

(b) where the wife has become an outcaste:

Provided that before he exercises his right to remarry under sub-section (a) he has obtained a formal sanction as hereinafter provided.

14. A Nambudiri may present a petition for sanction to marry a second wife under section 13 (a) in the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction he or his wife is resident. The Court, after issuing notice to the wife and hearing her objections, if any, may in its discretion grant or refuse such sanction.

Presentation of petition for sanction to marry a second wife.

15. (1) Any Nambudiri male who contracts a marriage in contravention of section 13 shall be punished with imprisonment of either description not exceeding six months and with fine which may extend to one thousand rupees, but a marriage so contracted shall not be deemed to be invalid.

Penalty for marrying in contravention of section 13.

(2) Any person who conducts, directs or abets the performance of any marriage in contravention of section 13 shall be punished with imprisonment of either description not exceeding six months and with fine which may extend to one thousand rupees.

CHAPTER IV.

Guardianship.

16. (1) Subject to the provisions of sub-section (2) the following persons in the order named shall be the legal guardian of a minor, male or female, in respect of his or her person and separate property, namely, father, mother, full brothers in the order of seniority, paternal grandfather, paternal uncles in the order of seniority, father's mother and consanguine brothers in the order of seniority.

Guardianship of minors.

(2) The husband shall be the legal guardian of his minor wife in respect of her person and separate property.

17. Nothing contained in this Chapter shall be deemed to affect the operation of the Cochin Guardian and Wards Act XVII of 1095.

Saving of the operation of the Guardian and Wards Act, XVII of 1095.

LIBRARY ARCHIVES Kerala Legislative Assembly

CHAPTER V.

Intestate Succession.

Property as to which a person is considered to have died intestate.

18. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

(i) A has left no will. He has died intestate in respect of the whole of his property.

(ii) A has left a will whereby he has appointed B his executor, but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(iv) A bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and made no other bequest and died leaving Rs. 2,000. C died before A without ever having had a son. A has died intestate in respect of the distribution of Rs. 1,000.

Devolution of property left by Nambudiri male intestate.

19. On the death intestate of a Nambudiri male, if he has left an heir or heirs in any other community, the share in the self-acquired or separate property of the deceased to which such heir or heirs are entitled under any law for the time being in force shall devolve on them. The balance of such property or in the absence of such heirs the whole of it shall devolve in the order and according to the rules contained in sections 20, 21, and 22.

Where the intestate has left widow, children or lineal descendants.

20. Where the intestate has left surviving him by a marriage or marriages in his own community one or more of the following relations, namely,

(a) a widow or widows,

(b) a son or sons,

(c) an unmarried daughter or unmarried daughters,

(d) a lineal descendant or descendants (other than married females) in the male line through a deceased son or sons,

the whole of the property shall belong to such surviving relation or relations.

LIBRARY ARCHIVES Kerala Legislative Assembly

21. The distribution of the property among the heirs referred to in section 20 shall be made in accordance with the following rules:—

Rules of distribution in cases falling under section 20.

i. The widow, or, if there is more than one widow, each of the widows, shall be entitled to a share equal to that of a son or unmarried daughter.

ii. Every son or unmarried daughter shall be entitled to an equal share:

Provided that if a son has pre-deceased the intestate, his lineal descendants in the male line (other than married females) shall be entitled to the share which such son would have taken had he survived the intestate.

iii. The sons and unmarried daughters of a deceased son shall be entitled in equal shares to what their father would have taken had he survived the intestate:

Provided that if a son's son has pre-deceased the intestate, his lineal descendants in the male line (other than married female) shall be entitled to the share which such son's son would have taken had he survived the intestate.

iv. In like manner, the property shall go to the surviving lineal descendants of the intestate in the male line (other than married females) where such descendants are in the degree of great-grand-children or in a more remote degree.

Explanation:—The descendants of a son, son's son or other male descendant in the male line shall not be entitled to any share in such property if such son, son's son or other descendant is alive at the time of the death of the intestate.

Illustrations.

1. Z dies intestate leaving two widows A and B, a son C, a grand-son D by such son, a married daugher E, an unmarried daughter F and by a deceased son, a grand-son G, a married grand-daugher H and an unmarried daughter J. A, B, C and F each gets one-fifth of the property, G and J one-tenth each and D, E and H do not get any share.

2. Z dies intestate leaving no widow but leaving A a son, B an unmarried daughter, E a grand-son and F an unmarried grand-daughter by a deceased son C, an unmarried grand-daughter G by a deceased son D and two great grand-sons H and J by a deceased son of D. A and B will each be entitled to one-fourth of the property, E and F will each beentitled to one-eighth, G will be entitled to one-eighth and H J to one-sixteenth.

3. Z dies intestate leaving no widow or child but leaving three grand-sons, A, B and C by a deceased son X and unmarried grand-daughters D

LIBRARY ARCHIVES Kerala Legislative Assembly

and E by a deceased son Y. A, B and C will be entitled to one-sixth and D and E will be entitled to one-fourth of Z's properties.

Devolution of property where the intestate has not left any of the heirs mentioned in section 20.

22. (1) Where the intestate has not left surviving him any of the heirs mentioned in section 20 the property shall devolve on the relations and in the order specified below:—

(1) Father,

(2) Mother,

(3) Married daughters,

(4) Brothers and sisters,

(5) Sons and married daugters of brothers,

(6) Father's father,

(7) Paternal uncles,

(8) Sons of paternal uncles,

(9) Sister's children,

(10) Father's paternal grand-father,

(11) Mother's paternal grand-father's descendants in the male line, the nearer excluding the more remote, and

(12) Father's remoter ascendants in the male line and their discendants of the same ascendants, the nearer excluding the more remote ascendant and his descendants and among the descendants of the ascendant, the nearer excluding the more remote.

(2) Property devolving on two or more heirs under sub-section (1) shall be devisible among them equally.

Devolution of property left by a married Nambudiri female intestate.

23. (1) On the death intestate of a married Nambudiri female her property which is self-acquired or separate shall devolve on the relations in the order specified below:—

(1) Sons and daughters; (ii) children of deceased sons; (iii) sons of deceased daughters; (iv) husband; (v) father; (vi) mother; (vii) brothers and sisters; (viii) brother's and sister's children; (ix) relations of her husband mentioned in section 20 and not included in clauses (i) and (ii) and (x) relations of her husband mentioned in sub-section (1) of section 22 in the order specified therein.

(2) Property devolving on two or more heirs under sub-section (1) shall be divisible among them equally;

LIBRARY ARCHIVES Kerala Legislative Assembly

Provided that where the property devolves on the relations of the husband referred to in clause (ix) of sub-section (1) it shall be divisible among them in accordance with the rules laid down in section 21.

Devolution of property left by an unmarried Nambudiri female intestate.

24. On the death intestate of an unmarried Nambudiri female, the whole of her property which is self-acquired or separate shall devolve on her parents. In the absence of her parents it shall devolve on her brothers and sisters in equal shares and in their absence it shall devolve on her illom.

CHAPTER VI.

Partition.

No member entitled to divide from his branch.

25. (a) No member of an illom shall claim or be compelled to divide from any other member or members of his or her own branch.

(b) No member shall claim, or be compelled, to divide from any other member or members of the branch of his or her lineal ascendants in the male line during the life-time of such ascendant.

Collateral branches entitled to divide from each other.

26. After the death of the male ascendant referred to in section 25, or with his consent each collateral branch of an illom represented by the majority of the major members thereof, or any member who does not come under any such branch, may claim an outright partition of all properties over which the illom has a power of disposal. The lineal ascendant referred to in section 25 may also in such a case take his share and separate.

Male member having a wife in the community to separate jointly with the wife.

27. Where a male member of an illom whose wife is also a member thereof, claims to separate from an illom, he shall do so on behalf of himself and his wife; and the shares of the husband and the wife shall be allotted to them jointly; and save as provided in section 28 neither the wife nor the husband shall claim partition from one another.

Member of an illom changing religion may claim or be compelled to separate.

28. Notwithstanding anything contained in section 25 any member of an illom who has changed his or her religion may claim or be compelled by any other member of the illom to take his or her share of the illom properties and separate.

Partition to be allowed to a minor only if it is to his benefit.

29. No claim to separate from the illom made on behalf of a minor shall be allowed by any Court unless it is satisfied that such separation is to the benefit of such minor.

LIBRARY ARCHIVES Kerala Legislative Assembly

30. Any individual or branch shall be entitled on partition to so much of the illom properties as will fall to such individual or to the members of such branch as a whole, if a division *per capita* were made among all the members of the illom at the time of partition.

Share on partition how determined.

31. The share obtained by any member separating from an illom shall be the separate property of such member provided that the share obtained by the husband and wife separating jointly shall be taken with the incidents of illom property.

Character of property got in partition from illom.

32. Until partition no member of the illom shall be deemed to have a definite share in the illom property liable to be seized in execution nor shall such member be deemed to have any alienable or her equitable interest therein.

Nature of right to illom property before partition.

33. If any property or right divisible under this Chapter is incapable of actual division or cannot be divided without seriously lessening its value or utility, the Court shall have power to direct the sale or enjoyment in common or by turns of such property as the circumstances of the particular case would permit.

Power of court to direct sale, etc., of property incapable of division.

CHAPTER VII.

Miscellaneous.

34. Nothing contained in this Act shall be deemed to affect any law, custom or usage applicable to Nambudiri Brahmins except to the extent expressly laid down in this Act.

Saving.

APPENDIX III.

THE COCHIN NEWSPAPER ACT REPEAL BILL.

Whereas it is expedient to give greater freedom to the Newspapers in Cochin, it is hereby enacted as follows :—

Preamble.

1. (1) This Act may be called 'The Cochin Newspapers (Repeal) Act, of 111 .

(2) It shall extend throughout Cochin State.

(3) It shall come into force at once.

Short title, extent and commencement

2. The Cochin Newspapers Act, II of 1112, is hereby repealed.

Repeal of Act II of 1112.

LIBRARY ARCHIVES Kerala Legislative Assembly